ACTION A CHALLENGE TO STATE TO PUT UP WITNESSES IN REBUTTAL WHO OTHERWISE COULDN'T TESTIFY

Lemmie Quinn, Foreman In Metal Room, Tells the Jury He Visited Factory on Saturday, April 26, and Found Frank at His Desk Writing at 12:20 o'Clock, the Very Minute Almost That State Claims Mary Phagan Must Have Been Killed

EFFORTS TO SHOW EXPERIMENTS OF WITNESSES WHO RE-ENACTED CONLEY'S STORY BRING FIGHT

Judge Roan Delays Decision Until Both Sides Can Submit Authorities—Dr. W. S. Kendrick Declares Dr. H. F. Harris Was Guessing in Conclusions He Gave About Mary Phagan's Death—Three School Mate Friends of Frank Tell of His Good Character

The character of Leo M. Frank was put in issue Wednesday morning by his attorneys during the fifteenth day's session of his trial for the murder of Mary Phagan.

While not unexpected the fact that the defense has thrown down the bars and challenged the state to put a blot on the character of the young factory superintendent was decidedly the feature of the morning session. Generally the defense in important criminal cases does not put the defendant's character in issue, for few people can stand the searching investigation to which the accused is generally subjected by detectives. Since Frank was first accused of the Phagan murder there have been constant rumors that the detectives have found witnesses who are ready to attack the character of the accused. These witnesses, if the detectives have found them, could never have testified had the defense not paved the way by putting his character in issue and practically challenging the state to its weaknesses. This action on the part of the defense means that Frank's attorneys are confident that the defendant's life will stand the white light of investigation.

The direct case of the defense is almost finished. When the noon recess was taken Wednesday, Attorney Luther Z. Rosser and Reuben R. Arnold expected to be through with all except character witnesses in less than a day's time.

The defense scored an important point Wednesday, when Lemmie Quinn, a factory foreman, declared that he saw Frank in his office, writing at 12:30, almost the exact time that the state claims Frank killed Mary Phagan. Quinn was still on the witness stand, when court adjourned for the noon recess, and the indications were that the completion of his direct and cross-examination would occupy an hour and possibly two hours of the afternoon.

Alfred L. Lane, who went to school with Frank at Pratt Institute, a New York merchant, who resides in Brooklyn, was the first witness to take the stand

and tell of Frank's good character. He came to Atlanta especially for the purpose of testifying.

ATTORNEYS CLASH OVER EVIDENCE.

Philip Nash, of Greenwood, N. J., and Richard A. Knight, of Brooklyn, N. Y., both schoolmates of Frank, both testified that his character was excellent. No other character witnesses were put up during the morning, Attorney Arnold stating that the three who testified had come a long ways and for that reason he had called them early.

Efforts of the defense to get before the jury experiments made by four men, who re-enacted Jim Conley's story as told on the witness stand, at the pencil factory, taking part in the conversations and movements [t]hat Conley claims he participated in, brought a vigorous protest from Solicitor Dorsey.

The solicitor contended that the court had declined to permit the evidence in regard to Conley's pantomime reproduction of his own story and that to admit the experiments made by the defense would be a direct reversal of his former decision. He declared that if the evidence is admitted he will seek to rebut it with Conley's own pantomime, previously ruled out.

Attorneys Reuben R. Arnold and Luther Z. Rosser both replied eloquently and authorities were cited on both sides. Judge Roan finally decided to postpone his decision until afternoon, when further authorities could be assembled and arguments heard. The point will be bitterly contested. Dr. William Owens was on the stand when the argument took place, it being the purpose of the defense to show through him that Conley could not have acted the part he claimed within the time alleged and that his story was therefore impossible.

Dr. W. S. Kendrick testified as the first witness Wednesday morning, characterizing Dr. Harris' conclusions as given in reference to Mary Phagan as guesses. He was cross-questioned at length by the solicitor.

Dr. William Owens was called and had taken the stand as the defense's first witness for the day, Wednesday, when he consented to give way to Dr. W. S. Kendrick, another witness, who was in a hurry to leave the court.

Dr. Kendrick said he had been practicing general medicine for thirty-eight years and was not a specialist of any sort. He was elected the dean of the old Atlanta Medical college twenty-seven years ago, he said, and was the founder of the Atlanta School of Medicine. He gave Dr. H. F. Harris his first position as a professor of medicine, he said, and also gave him his first position as a professor of bacteriology after he had taken a special course in Philadelphia. In answer to hypothetical questions Dr. Kendrick followed the

other experts put on the stand for the defense, characterizing every important feature of Dr. Harris' testimony as "guess work."

Dr. Kendrick discussed conditions in Mary Phagan's body, the hemorrhage, and the blow on the head. He discussed then the conditions reported in Mary Phagan's stomach. He said that though he is not a stomach specialist, he had been lecturing on diseases of the stomach for thirty-five years.

NO DEPENDABLE OPINION.

Dr. Kendrick said, in answer to one of Mr. Arnold's questions: "I have explained to my class, probably 1,000 times, that each stomach is a law unto itself." He said that no dependable opinion was to the length of time food has been in the stomach could be formed from an examination of its contents after death. He does not think, he said, that there is an expert in the world who could form such an opinion that could be relied on.

Solicitor Dorsey attacked the witness vigorously on cross-examination. The examination was interrupted by frequent tilts among the attorneys.

After a few preliminary questions, the solicitor put to the witness a long hypothetical question regarding the stomach and its various functions, in an effort to make the witness commit herself on an opinion as to the length of time food found in a certain state had been in the stomach. Dr. Kendrick replied that he couldn't advance an opinion. "I am not a specialist, and not an expert on the stomach," said he. "I am only a practitioner of medicine."

"There are very few experts on the stomach in Atlanta, are ther[e] not, doctor?" asked the solicitor.

NOT STOMACH SPECIALISTS.

"Yes, there are only a few; but they are more than we need," answered the witness.

"Is Dr. Westmoreland a stomach spe—[…]

FRANK'S CHARACTER MADE ISSUE BY THE DEFENSE IN TRIAL

[…]—cialist?" asked the solicitor. Dr. Westmoreland had testified previously for the defense.

"Well, I've been his family physician for thirty years."

"I didn't ask you that. I asked if he is a stomach specialist."

"He is a surgeon," said the witness.

"Is Dr. Hancock, a surgeon for the Georgia Railway and Power company, a stomach specialist?" asked the solicitor.

Dr. Hancock also had testified for the defense.

"No, sir."

In answer to other questions, Dr. Kendrick disclosed the fact that all practitioners of medicine and of surgery possess a certain practical knowledge of the stomach, although very few of them are stomach specialists.

CLASH BETWEEN COUNSEL.

Solicitor Dorsey then put another hypothetical question, giving the conditions found in Mary Phagan's stomach and the report upon its contents, and asked Dr. Kendrick again if he could not venture some kind of opinion as to how long the cabbage had been in her stomach. Dr. Kendrick said he could not hazard such an opinion. The witness admitted in answer to questions, that certain general principles regarding the functions of the stomach and digestive apparatus are recognized as well as tables on that subject compiled by scientists. In answer to one of Solicitor Dorsey's questions, Dr. Kendrick retorted "I can't digest cabbage at all, for instance." Solicitor Dorsey admonished the witness that did not answer his question. Attorney Arnold addressed the court, "I think, your honor, that it's very pertinent," said he. Solicitor Dorsey addressed the court, "This man may be a dyspeptic. Probably he is," said the solicitor. Dr. Kendrick interposed, "No, sir." Attorney Arnold concluded by crying, "It's just his way of jumping on everybody who appears in this case." He said, further, that the witness was old enough to be Mr. Dorsey's father and his testimony should be credible and Solicitor Dorsey retorted, "Yes, that's right."

Solicitor Dorsey then put another question to Dr. Kendrick regarding digestion and the witness replied that in the normal stomach digestion begins as soon as the food enters. There followed several questions of a technical nature, until Dr. Kendrick replied to one, "I don't know."

Attorney Arnold interrupted, "He says, your honor, that he's not a laboratory man."

"Yes, I know he does and so do you. You've already got it in the record," said the solicitor.

WAS HOMER TAUGHT?

"Isn't it true, Dr. Kendrick," asked the solicitor, "that Homer excelled all the men who taught him?"

Attorney Arnold turned around to Mr. Dorsey, "Nobody never taught him," said he, referring to Homer. There followed a little side debate as to whether Homer had any teachers or not. The solicitor contended that history said Homer had 3,000 teachers and that finally he grew wiser than all of them.

"It's true, isn't it, doctor, that students sometimes excel the master?"

"Yes," answered Dr. Kendrick.

"The progress of digestion is not complete until hydrochloric acid is found in its free state in the stomach. Is that correct, doctor?"

"Yes; I have taught that."

"When the descending scale begins, the process of digestion is complete, isn't it?"
"I don't know as to that."

"Isn't it true that free hydrochloric acid means that digestion is finished?"
"It is reasonable to say so—yes."

"When you find undigested food and a small degree of hydrochloric acid, it means that digestion is hardly complete, doesn't it?"
"Yes."

"It is an irresistible conclusion, isn't it, doctor?"
"Well, I should say it was the general rule."

"You would be obliged to come to that conclusion, shouldn't you, doctor?"

EACH STOMACH A LAW.

"Well, I don't know. As I have said, ‘Each stomach is a law unto itself.' I personally wouldn't eat cabbage at all because it makes me sick each time I eat it."

"Well, I guess a Welsh rarebit would make you sick, too, wouldn't it, doctor?"
"I never saw a Welsh rarebit." (Laughter in court.)

"There are certain fundamental principles that govern the stomach, aren't there?"

"Yes, I should say so, but I still say that every stomach is more or less a law unto itself."

"There are four stages of digestion, aren't there?"
"I am not a stomach specialist. I haven't read anything on digestion in ten years."

"How long does it take an ordinary stomach to digest turnips?"
"I never tested it."

"You don't mean to say you try every principle of medicine on yourself, do you?"
"No."

"Well, you do know how long it would take to digest [1 word illegible] in an ordinary stomach, don't you?"
"I should say from three to four hours, like an ordinary mixed meal."

"Don't you know that Dr. Crittenden of Yale university has made an elaborate study of the subject of digestion?"
"Yes, and [several words illegible] specialists sometimes [several words illegible].

QUESTION [two words illegible]

"Well, of course [several words illegible] the attribute of the [word illegible] isn't it, doctor?"
To this question Attorney Arnold objected vigorously on the ground that it was improper. Solicitor Dorsey replied that it was no more improper than Dr. Kendrick's commonplace platitudes. Then followed a hot wrangle among the attorneys, which finally subsided when the court ruled that Solicitor Dorsey's question and his comment were both improper and should be stricken from the records.

The solicitor propounded the following hypothetical question, "Suppose a child about thirteen or fourteen years old ate cabbage, around 11:30 o'clock in the morning. Suppose her body was found at 3:30 a. m. the following morning. Suppose the tongue was out, there were deep indentations on the neck, a small wound in the back of the head, one eye discolored, the under clothes bloody, the body stiff, all the blood in the body [1 word illegible] on the lower side as it lay on the ground. Suppose you knew the small intestine was clear for six feet below the stomach. Suppose you had every indication that digestion had been progressing favorably. Suppose you found starch granules undigested. Suppose you found the acidity at 32 degrees. Wouldn't you venture an opinion as to how long the cabbage had been in the stomach before death?"

NO MAN COULD TELL.

"I should say emphatically that no living man could have said how long the cabbage had been in the stomach before death. And if you care to hear it, I will give you my reason for saying that."

Solicitor Dorsey indicated that he didn't care to hear the witness' explanation, but Mr. Arnold interrupted, insisting that Dr. Kendrick should be allowed to explain. If Solicitor Dorsey didn't want the explanation, the defense certainly did and he thought the jury was entitled to have it, Dr. Kendrick proceeded.

His explanation in substance was as follows: That taking the case of Mary Phagan, for instance, if in thirty minutes after she ate her cabbage and bread she was alarmed by something, digestion would have been almost completely arrested. He said if she had lived six hours after the alarm, there would have been practically no progress in the digestion. He said that he had frequently had patients whose digestion had been arrested by violent emotions, or somethings by violent heat in summer, and he had found undigested food in their stomachs from ten to twenty-four hours later.

Dr. Kendrick declared, in answer to other questions, that he would consider himself "the greatest surgeon living" if he could examine a body, ten days after death and get any definite idea as to how long after eating a certain meal the person died. He declared that he did not believe it was possible to tell anything accurate even in two or three days.

"You and Dr. Westmoreland and some of the others are very bitter toward Dr. Harris, are you not?"

NOT BITTER TOWARD HARRIS.

"I call on anybody to say that they ever heard me utter a bitter word against Dr. Harris. I have given him everything he has had except the position on the board of health."

"And Dr. Westmoreland gave him that, didn't he?" asked the solicitor.

"Yes."

"And Dr. Harris has still got it, hasn't he?" asked the solicitor.

"Yes."

Attorney Arnold examined the witness again, and exhibited the cabbage taken from Mary Phagan's stomach.

"Leaving out the acid, and things like that," said he, "this cabbage looks like it had hardly been chewed at all, doesn't it?"
"Yes."

HARD TO DIGEST.

"Cabbage chewed no more than that would be terribly hard to digest, wouldn't it?"
"It certainly would."

"Dr. Kendrick, you say every stomach is a law unto itself?"
"True or false. I've been teaching that for many years."

Mr. Arnold asked the witness about laboratory men, or chemists. Dr. Kendrick replied that he had a young man who had been practicing only eighteen months, whom he considers as good as anyone else for chemical analyses of the stomach.

Mr. Arnold brought out the point that laboratory men usually work under the regular practitioners.

"Ten days after death, what becomes of the hydrochloric acid by the process of asmosis?" asked Mr. Arnold.

Dr. Kendrick said he did not know.

"What effect would formaldehyde have on the pancreatic juices?"
"I don't know."

Dr. Kendrick was excused.

DR. OWENS CALLED.

Dr. William Owens, who described himself as a physician and a real estate operator, was called to the stand.

"Did you make certain tests at the National Pencil factory to determine"—

"We object," said Solicitor Dorsey.

"Wait till you've heard the question," said Mr. Arnold.

"Oh, I know what it will be," said Mr. Dorsey, "and I object right now."

Mr. Arnold addressed the court, "Your honor, we want to show that these gentlemen have gone through certain movements and have made certain

conversations, following verbatim conversations which Conley alleged to have occurred and movements which he claimed to have made. They've used the same steps, the same elevator, the same metal room, in the same building. What is the difference between that and testimony given by the expert accountants on the financial sheet?"

SOLICITOR'S OBJECTION.

"This is not an expert matter," said Mr. Dorsey. "Your honor recently ruled out evidence that we tried to put in, as to the time it took Jim Conley, one of the real actors in this matter, to go through the movements and conversations which he described. And now these gentlemen want the jury to hear the details of this farce which these others have gone through. I say that it is thoroughly inadmissible."

"Well, put your question, so we can see," directed Judge Roan.

Mr. Arnold addressed the witness. "You have gone through certain movements at our request in the National Pencil factory, have you not?"

"Well, I just kept the time and followed along," said the witness.

"Who was with you?"

"A Mr. Wilson, who I think is with the express company; Mr. Brent and Mr. Fleming."

"What did you carry?"

"Brent carried a 110-pound sack."

Solicitor Dorsey objected. "We tried to show, your honor, how long it took Jim Conley to execute these movements, and it was ruled out. And now they want to put in the testimony of this builder who had no part in the actual crime."

Mr. Arnold interrupted, "The gentleman always tries to show that your honor has done something to him. And then he almost cries about it and used that as an argument. At the time that Conley made the demonstration at the factory he was only at the third stage of his lying, and since then he has put in many new features. Then he denied seeing Mary Phagan. He denied seeing Monteen Stover. He denied having heard any screams or having heard footsteps toward the metal room. And he left out many extremely important statements which he gave when on the stand."

Attorney Hooper objected to the use of the word "lying." Judge Roan directed Mr. Arnold to couch his objection in more admissible language.

SAYS DECISION IS REVERSED.

"Your honor, when we were presenting our case," said the solicitor, "we not only asked Conley about the time it took him to carry the body down, but also other witnesses, if you admit this evidence, it is a positive reversal of your former ruling. Isn't the testimony of the man who actually went through it himself better than that of a man who held a watch while others did it?" "Mr. Dorsey, if the question of time came up before," said Judge Roan, "I will rule with you. I don't remember that the time came up, though."

"Well, if it does go in, we will expect to bring it up again in rebuttal, your honor. You will be called on again to pass on the admissibility of this evidence."

Attorney Arnold commented "that question would have to be decided then," produced a paper depicting the scene of the carrying of the body to the basement, as told by Conley, and directed Attorney Leavitt, one of the subordinate counsel for the defense, to read it to the jury.

The document, some 2,000 words long, was arranged much in the form of a moving picture scenario upon Conley's testimony, using Conley's words from the transcript of evidence given in court, according to Attorney Arnold.

Mr. Leavitt read it to the jury. It went in as a part of the question, the witness being expected to answer that he and his companions had enacted the scenario. A copy of the paper was furnished to Solicitor Dorsey. At the conclusion he objected again to the question. "They've got things mixed up here. There are some things in here that actually occurred Monday and Tuesday. This witness has no right to testify about it anyhow. It is purely a matter of opinion."

ATTORNEYS ARGUE AGAIN.

Attorney Arnold followed with a long and eloquent argument, contending that it was not an opinion; that Dr. Owens had been called to testify about facts. The witness took the scenario, he said, and saw men re-enact Conley's story; and he held a watch to time them while they followed it as faithfully as possible.

Solicitor Dorsey answered, contending that the witness was not an expert and that he therefore could not give the results of tehts [sic].

"Experts can give the results of tests under certain conditions," said he, "but this man is not an expert. Is this man an expert at strangling girls to death? Is he an expert at running elevators? Is he an expert at carrying dead bodies?"

Judge Roan replied to Mr. Dorsey: "I'm not going to let this man give an opinion. Here is the point Mr. Arnold makes, though. Suppose a man walks from here to Whitehall street. If he testifies as to the time he thinks it took him, he is advancing an opinion. But if he was timed by a watch and testified as to the actual time it took him, he is testifying to fact. I am inclined to let the time in."

Solicitor Dorsey argued again, still claiming that it was a matter of opinion.

Judge Roan said: "You don't need to argue on that, Mr. Dorsey. I'm with you on the opinion part of it. I'm not going to let an opinion in."

"It's expert testimony, your honor, or none," said the solicitor. "These twelve men are twelve times as competent to judge, as the witness."

"Mr. Dorsey, if there is nothing in the negro's testimony to show the speed with which he moved, I am inclined to believe this is nothing but guesswork," said Judge Roan.

Attorney Arnold addressed the court, "I am going to show that this man went to the pencil factory and went through this operation as quickly as was reasonably possible. Would your honor hold that we are bound by the simple statement of this lying negro?"

ROSSER ENTERS DEBATE.

Attorney Rosser entered the debate for the first time. "It's impossible for any man to duplicate a feat in exactly the same time as any other man did it, or any man to duplicate a feat that he himself did. If I walk into my office, the presumption is that I do it in an ordinary time. In the law of experimentation, it is assumed that it took a man an ordinary time to do anything." He concluded by saying: "We only want to show with approximate accuracy the length of time of this operation, and leave it to the jury to decide just how accurate it is."

Solicitor Dorsey challenged the attorneys for the defense to produce any authority in support of their contention. He declared if their proposition was being urged by anyone of less than their well known and recognized ability, the court would not consider it for a moment.

To this Judge Roan replied that he had no more respect for their ability than for any other lawyer's ability. He said he was going to decide the question as nearly as he could according to the law.

DECISION DEFERRED.

Solicitor Dorsey based his argument on the ground that a non-expert witness cannot testify as to the result of experiments made out of court. He read several decisions in support of that contention. Attorney Arnold took the decision on which Solicitor Dorsey laid particular stress and read a little further down and made it appear in support of his contention, where the decision said that an act or a series of acts may be re-enacted under practically the same circumstances as sworn to in court, and the results testified to.

After arguments on both sides had proceeded for several minutes and the attorneys on both sides continued sending for authorities, Judge Roan suggested that the witness be excused until the afternoon; that the attorneys in the meantime assemble their authorities and finish their arguments at a time to be agreed on during the afternoon session. Dr. Owens said that it would be convenient for him to return during the afternoon, and the judge's suggestion was agreed to by both sides.

DALTON ATTACKED AGAIN.

The defense called seven witnesses from Gwinnett county, who declared that they knew C. B. Dalton and would not believe him on oath. Only one or two of them were cross-examined, admitting that it had been a number of years —about fifteen—since they knew Dalton. In each instance Mr. Arnold asked on the redirect examination if the witnesses though his character had improved, upon his own admissions; the witnesses replying that they did not think it had. The witnesses were A. O. Nix, an attorney, of Lawrenceville, who testified that Dalton had been tried in the city court of that place for stealing; Samuel Craig, a farmer, who owns 500 acres of land; B. L. Patterson, another farmer who owns 700 acres; Robert Craig, farmer; T. L. Ambrose, a merchant and farmer, and J. P. Byrd, merchant.

The attack on Dalton's character was followed by character witnesses for Leo M. Frank, the accused.

CHARACTER PUT IN ISSUE.

Alfred L. Lane, of Brooklyn, N. Y., a merchant in New York City, was the first witness. He said that he had known Frank for fifteen years. He said that from 1898 to 1902 they were associated intimately in Pratt Institute. Solicitor

Dorsey interrupted, declaring that he did not see the relevancy of the questions unless the defense was putting the defendant's character at issue.

"That's exactly what we are doing," said Mr. Arnold.

The witness continued that he did not go to Cornell with Frank, but saw him there. Asked the formal questions as to the defendant's character, the witness replied "Good," with emphasis. He was not cross-examined by the solicitor. Mr. Lane stated that he arrived in Atlanta at 5 o'clock Tuesday afternoon to testify for Frank.

Philip Nash was called. He testified that his home is in Greenwood, N. J., and that he is a clerical engineer for the New York Telephone company.

"Did you come to Atlanta to testify in this case?" asked Attorney Arnold.

"I did."

He testified that he had known Leo M. Frank since 1895; that they were associated four years as schoolmates; that frequently they were in the same class rooms when the witness was between sixteen and twenty years of age. The witness testified that the general character of the accused is good.

Richard A. Knight, of Brooklyn, N. Y., stated that he is a consulting engineer with an office of his own. He testified that he had known Frank six years while going to school with him at Pratt Institute, in Brooklyn, and at Cornell; that he was in the class ahead of Frank at college; that his reputation was good.

With these three character witnesses the defense dismissed that subject for a while. Attorney Arnold stating that the three had come a long way to testify and that he did not wish to hold them any longer than was necessary.

EX-OFFICE BOY CALLED.

The defense next called Frank Payne, aged sixteen, formerly an office boy employed by the National Pencil company. He testified that he severed his connection with the factory eight or ten months ago, and that he is not working now nor going to school.

"Do you memember [sic] last Thanksgiving day?" asked Attorney Arnold.

"Yes, sir."

"What kind of a day was it?"
"There was snow on ground." In answer to further questions he said that he

worked for the pencil company until about three weeks after Thanksgiving, and that he had worked for them two or three weeks before Thanksgiving—a total of about six weeks in all. He testified that Herbert Schiff had sent him upstairs to work in the box room on that day.

"Where were Frank and Schiff when you were given these instructions?"
"In the office."

"What did you do on the fourth floor?"
"Moved some boxes."

"Who was there with you?"
"Jim Conley."

"What time did you leave?"
"About 11 o'clock."

CONLEY LEFT AT 10:30.

"What time did Conley go?"

"About 10:30 o'clock."

"Did you go down to Frank's office when you left there?"
"Yes, sir."

"Were Frank and Schiff in there?"
"Yes, sir."

"What time did you leave the building?"
"About 12 o'clock."

"Did you see a negro in the hallway as you went down the stairs?"
"No, sir."

"On Saturday afternoons when did you usually leave?"
"Between 3:30 and 4 o'clock."

"Did you ever know Frank to have any women in his office?"
"No, sir, he never did."

"Did you ever at any time see him buy drinks for any women?"
"No, sir."

The boy testified that when he left on Saturday afternoons he always left Schiff and Frank in the office. He said in answer to other questions that his

dinner hour was from 1 to 2 o'clock, and that Frank usually left for dinner about 12:30 or 1 o'clock and returned about 3 o'clock.

"Where did you stay most of the time?"

"In Mr. Frank's office."

"Was Mr. Schiff there, too?"

"Yes."

"Did they ever send you to Montag's in the morning?"
"Yes, all the time."

"How long did you stay?"
"Ten or fifteen minutes."

"What work was Jim Conley doing on the fourth floor on Thanksgiving day?"
"He was working all around up there."
Frank Payne, the witness, was cross-examined by Attorney Hooper.

"What was your work?" asked Mr. Hooper.

"I was general office boy."

"Were Mr. Frank and Mr. Schiff in the office all of the time?"
"Yes."

"When did you leave the employ of the factory?"
"Seven or eight months ago."

"Why did you leave?"
"Because I got a better job."

"You say you left on Saturday afternoons between 3:30 and 4 o'clock?"
"Yes."

"You say you left Mr. Frank there, and Mr. Schiff?"
"Yes."

"You never went back there at night?"
"No, sir."

"Did you ever see any beer bottles around the office?"
"No."

"What time did you get there Thanksgiving morning?"

"Between 1 and 3 o'clock."

"Who was there when you got there?"
"Mr. Holloway."

"You say Jim Conley left the building about 10:30?"
"Yes."

"What time did you leave?"
"About 11 o'clock."

"Did you come back?"
"No."

"Then you don't' know whether Jim came back or not?"
"No."

"You are not certain he left the building at all, are you?"
"I see him go downstairs."

This closed the cross-examination.

QUINN TESTIFIES.

Lemmie Quinn, foreman of the metal department of the National Pencil factory was called next by the defense. Quinn greeted the accused with a smile as he took the stand. He was questioned by Mr. Arnold.

"Where do you work?"
"At the National Pencil factory."

"What do you do there?"
"I am the foreman of the metal department."

"Is that where Mary Phagan worked?"
"Yes."

"Is that where Mr. Barrett works?"
"Yes."

"Do you recollect Memorial day, April 28, 1913."

"Yes."

"Was the factory running that day?"
"No, it was a holiday."

"Do you recollect when Mr. Barrett claims to have found the blood spots and the hair?"
"Yes."

"Did he point them out to you?"
"Yes."

TALKED OF REWARD.

"Did Mr. Barrett ever make any statements to you as to the reward, if Mr. Frank should be arrested?"
"Yes, he mentioned it to me several times."

Solicitor Dorsey objected. Judge Roan overruled him.

"What statements did he make to you in regard to the reward?"
"He asked me if Frank was arrested, and didn't know whether they could or not."

reward. I told him I was not a lawyer know whether they could or not."

"What sums, if any, did he mention to you?"
"He mentioned $3,700 and $4,500."

"How often did he mention the reward to you?"
"I don't remember. It was so numerous that I can't recall them."

TELLS OF BLOOD SPOTS.

Quinn continued that he would not have noticed the blood on the metal room floor unless his attention had been called to it. At this point Attorney Arnold asked his associate counsel if they had in court the planks taken from the metal room, and the machine lathe, and when informed that they had not he said that they be sent for. Quinn said that he couldn't tell whether the blood was fresh or old.

"Do people often get hurt in the factory?" asked Mr. Arnold.

"Every once in a while somebody gets his hand hurt."

"Do you remember a fellow named C. P. Gilbert being hurt?"
"Yes, about a year ago an emery wheel flew off and struck him in the forehead."

"Did he bleed profusely?"
"Yes, very."

"What was done with him?"
"First he was carried to the dressing room that I use, and then he was taken to the office, and finally to an ambulance."

"Did he have to pass right by this spot where the blood was found?"

"Yes."

"And he was bleeding very much?"
"Yes."

"Didn't a boy get his hand badly cut on that floor?"
"Yes. That was some time after Gilbert was hurt."

"And he had to go by that spot to get to the office?"
"Yes."

"And you saw his hand bleeding?"

"Yes."

"Was this boy's cut so bad that he had to be taken to the hospital?"

"Yes, he went to the Atlanta hospital."

"Did you ever notice blood around the women's dressing rooms?"
"I don't remember seeing any."

"You have a number of women working there, haven't you?"
"Yes, about 100."

"Did you see the white stuff over the stain?"

"Yes, but I don't know what it was."

"There is a white substance up there, that you use, isn't there, and it often gets scattered, doesn't it?"

COULDN'T IDENTIFY HAIR.

The witness replied yes, and in answer to another question said he had never known of the floor of the factory being scrubbed. He continued that only five or six hairs were found on the lathe, and that he, Quinn, could not tell the

color. He said that Mary Phagan had worked in his department since Christmas, and that her hair was very much the same color as Magnolia Kennedy's.

He often saw girls curling their hair at a jet about ten feet from the lathe where the hair was found, said Quinn. The hair easily could have been blown that way, said he in answer to a question. He described Mary Phagan's appearance, and said that he saw the body at the undertaker's. He last saw Mary on the Monday before the tragedy, he said, when she was laid off because they were out of certain material.

"Do you know Henry Smith?" asked Mr. Arnold.

"Yes."

"When did you get your pay for that week?"
"Friday night."

"And when were you due to return to the office?"
"Monday, as Saturday was a holiday."

VISITED FACTORY AT 12:30.

The attorney had the witness go into a detailed description of his movements on Saturday. Quinn said that he arose at 7 o'clock and went to town with his wife and baby to have the baby's picture taken. He was at the photographer's at 10 o'clock by appointment. Leaving the photographer's, he walked by the Globe Clothing company's place, by Wolfsheimer's market and a soda fountain, then returning to his residence at 31-B Pulliam street. He left home about 11:45, he said, going to Wolfsheimer's market, making the trip by Pulliam, Garnett and Whitehall. He made a number of purchases and ordered the packages sent home. He had hurried to reach the market by 12, thinking that they might close, he said. From the market he went to Benjamin's pharmacy, and was there at about 12:10 o'clock. He went from there to the pencil factory, as he often did on holidays, he said. One of the purposes of his visit, he said, was to see Schiff. He did not find the street door locked. He did not see Mary Phagan, Monteen Stover or Jim Conley. He found the door of Frank's outer office and his inner office open, and in answer to a question about the safe said he thought it was open. He arrived at the factory about 12:30 o'clock, he said.

He said that he was in Wolfsheimer's market about twelve minutes. As well as he could remember, the 12 o'clock whistle blew just before he left there, he said. He told of the purchases that he made. He was at Benjamin's three or four minutes, he said.

"Did you see anybody beside Mr. Frank at the pencil factory?"
"No, sir."

"Where was Frank when you saw him?"
"In the inner office."

"What was he doing?"
"He was writing."

"Did you say anything to Frank?"
"Yes, I said ‘Good morning, Mr. Frank.'"

"Did he say anything to you?"
"Yes, he answered, ‘Good morning.'"

The witness testified that then he asked Frank if Mr. Schiff would be in, and that Frank replied he didn't think Schiff would be down that day. Quinn testified that he remarked then to Frank, "You see you can't keep me away."

"About how long were you in the pencil factory?"
"About two minutes."

"Where were you when you next noticed the time?"
Quinn gave the name of a pool parlor a block and a half distant from the pencil factory.

"Do you recollect Harry Mulsby?"

"Yes."

"Where is his place of business?"
"Two doors from ours."

"Did you speak to him that day?"
"Yes."

WENT TO BUSY BEE.

Quinn then told of going into the Busy Bee cafe and seeing Miss Corinthia Hall and Mrs. Emma Freeman there. He related that incident as Miss Hall and Mrs. Freeman already had told it.

"What did you want to see Schiff about?" asked Mr. Arnold.

"I wanted to see him about a bet we had on a baseball game."

Quinn told of the two young women going out of the Busy Bee cafe and going into Mulsby's place to telephone. In answer to a question by Attorney Arnold, he said he looked at the Western Union clock in the pool room when he arrived there, and the clock showed 12:30 then.

"Did you talk with anybody in these parlors?" asked Mr. Arnold.

"Yes, I talked to a Mr. McMurray." Quinn continued that he stayed in the pool parlor until 1:15 o'clock. Then he left there and went to the Atlanta theater to purchase tickets. After buying the tickets, he returned to the pool room.

"Who is John Rainey?" asked Mr. Arnold.

"He works in my department."

"Were you at the pencil factory Sunday?"
"Yes."

"Whom did you talk with?"
"Mr. Darley and Mr. Montag."

"Which Montag?"
"I don't know."

A DIFFERENT SUIT.

Attorney Arnold asked the witness what kind of clothes Frank had on when he was in the office Saturday. Quinn said as well as he could remember Frank had on brown trousers and was in his shirt sleeves."

"Did you see Frank on Sunday?"
"Yes."

"What kind of a suit did he have on?"
"Black or blue."

Quinn stated that he chipped off a piece of wood from the back door of the basement for Detective Starnes. He explained that the white stuff smeared on the stain upon the metal room floor was used on the machines in the metal room and that frequently it was spattered on the floor while being taken from one machine to another in buckets.

"Did you see Mr. Frank on Monday?"
"Yes, I saw him Monday afternoon."

"What suit did he have on then?"
"A brown suit, as well as I can recollect."

At this point Attorney Arnold directed the witness' attention to the diagram of the pencil factory tendered by Solicitor Dorsey. Quinn pointed out on the diagram his department.

Attorney Arnold indicated "No. 7" on the diagram, and asked: "Is this the place where Barrett pointed out the blood to you?"
"Yes."

SAW NO BLOOD MONDAY.

"Did you see any blood near the lathe or under the lathe on Sunday or Monday?"
"No."

"Did you see anything that looked like where blood had been washed or smeared over?"
"No."

"Did you see any hair on the running lathe?"
"No, sir."

"Is the floor dry near the ladies' dressing room?"
"Yes, sir."

"Did you ever see any blood there?"
"No."

"If blood had been washed up near the turning lathe, why couldn't it have been washed up just as well near the dressing room?"
Solicitor Dorsey objected to the question and was sustained by the court. Attorney Arnold smilingly remarked that it was a conclusion, but such a good one that he could not resist the temptation to ask the question.

"Does this diagram show anything of the Clark Woodenware basement?" Attorney Arnold referred to that rear portion of the first floor.

"No."

Solicitor Dorsey contended that the diagram did show the door giving entrance to that portion of the building.

At this point court adjourned for lunch.